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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA, FRESNO

In re

NICHOLAS J. CARRILLO, JR. AND
MISTY DAWN CARRILLO,

Debtors.

Chapter 13
Case No. 22-12053A-13F
DC No. PBB-5

HEARING
Date: August 21, 2024
Time: 9:30 a.m.
Dept: A
Ctrm: 11 (5th Floor)
United States Bankruptcy Court
2500 Tulare Street
Fresno, California 93721-1318

HONROABLE JENNIFER E. NIEMANN

**MOTION FOR CONFIRMATION OF
FOURTH MODIFIED CHAPTER 13 PLAN**

1 The Debtors, Nicholas J. Carrillo and Misty Dawn Carrillo (hereinafter referred to
2 as “Debtors”), hereby move this Court for an Order confirming the Fourth Modified Chapter 13
3 Plan filed pursuant to 11 U.S.C. § 1329.
4

5 1. This motion is served to all creditors and interested parties on 35 days’ notice
6 as required by Local Bankruptcy Rule 3015-1(d)(2) and 9014(f)(1) and complies with service
7 requirements of Federal Rule of Bankruptcy Procedure 3015(g).
8

9 2. The factual statements in the Debtor’s Declaration and the factual grounds
10 stated in the Motion meet all requirements of 11 U.S.C. §§1322 and 1325(a).
11

12 3. The Debtors hereby move this Court for an Order approving the Fourth
13 Modified Chapter 13 Plan for the following reasons:
14

15 4. Nicholas J. Carrillo and Misty Dawn Carrillo are the Debtors in the case
16 number 22-12053. Their petition was filed on December 1, 2022.
17

18 5. Debtors have tendered an aggregate amount of \$11,330.00 in Plan payments
19 since they filed their case.
20

21 6. Debtors do not have a mortgage loan.
22

23 7. Debtors are filing the proposed Fourth Modified Chapter 13 Plan to request a
24 deferment of the Plan payments that have been missed by changing the amount that has come
25 due since the case was filed, no payment July 2024, and payments to resume August 2024 at a
26 rate of \$1,436.00 per month. Debtors’ Plan payments will increase in month 28 after payoff of
27 Aaron’s LLC.
28

 8. Debtors Plan payments will result in a decrease in the percentage
to unsecured creditors from 15 percent to eight percent.

 9. Filed concurrently herewith as Exhibit “A” is an invoice from American Tire

1 Depot dated May 17, 2024 in the amount of \$1,456.71. Debtors assert that they have been unable
2 to stay current due to an increase in post-petition obligations which Debtors have paid.

3 10. Filed concurrently herewith as Exhibit "B" is a copy of Debtors' most recent
4 pay-stub. Said pay-stubs have been used to prepare the Supplemental Schedule I filed
5 concurrently herewith as Exhibit "C". Debtors assert that the Supplemental Schedule I is an
6 accurate reflection of their current income.
7

8 11. In this Fourt Modified Chapter 13 Plan the payments are as follows:
9 Aggregate amount of \$11,330.00 in the first 18 months, no payment July 2024, \$1,436.00 per
10 month for 8 months, then \$1,519.00 per month for 33 months.
11

12 12. Unsecured creditors will receive eight percent in accordance with the Debtors'
13 ability to pay.

14 13. Filed concurrently herewith as Exhibit "D" is a copy of Debtors'
15 Supplemental Schedule J which has been filed in support of the Fourth Modified Chapter 13
16 Plan. Debtors assert that the schedules are an accurate reflection of their current expenses. Line
17 23c of Schedule J reflect Debtors have enough disposable to make their required modified
18 payment.
19

20 14. Debtors assert that they are both employed full-time and are commuting to
21 and from work. Debtors are paying Darcie Staff \$150.00 per month for child care. Filed
22 concurrently herewith as Exhibit "E" is a written statement signed by Darcie Staff.
23

24 15. Debtors hereby move this court to confirm the Fourth Modified Chapter 13
25 Plan, which was served on Lilian G. Tsang, all creditors and all interested parties and is filed
26 concurrently herewith.

27 16. The Fourth Modified Chapter 13 Plan complies with applicable law.
28

1 17. Any fees or charges required by Chapter 123 of Title 28 of the U.S. Code
2 have been paid.

3 18. The Fourth Modified Chapter 13 Plan is proposed in good faith and is not by
4 any means forbidden by law. The Petition was filed in good faith. The Debtors have been in this
5 bankruptcy case for 18 months and intend to complete this modified Plan.
6

7 19. Chapter 7 liquidation requires unsecured claims receive a \$0.00. Debtors'
8 Plan meets said liquidation requirement. Debtors have listed all assets in Schedule A and B and
9 believes the values remain the same, if not less.
10

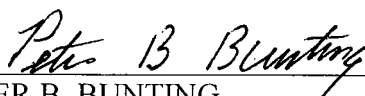
11 20. As required by section 1325(a)(5)(B), the modified Plan provides that all
12 secured creditors retain their lien on their collateral until the secured claim is paid or until the
13 creditors accepts surrender of their collateral. All secured creditors have either accepted the Plan,
14 will be allowed to collect and dispose of the collateral via surrender thereof, or will be paid the
15 value of their collateral pursuant to terms of the Plan. All required motions to value have been
16 filed.
17

18 21. The Debtors have no on-going domestic support obligation.

19 22. The Debtors have filed all applicable tax returns which have become due for
20 the last four years.

21 WHEREFORE the Debtors asks that the Court confirm their Fourth Modified
22 Chapter 13 Plan.
23

24 Dated: JUL 05 2024

25
26 
27 PETER B. BUNTING
28 Debtor(s) Attorney